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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,085	07/02/2003	William P. Blumenfeld-Kesler	WK-1-gw	6993
7590	08/25/2004			
Michael I. Kroll 171 Stillwell Lane Syosset, NY 11791			EXAMINER HAN, JASON	
			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/613,085

Applicant(s)

BLUMENFELD-KESLER, WILLIAM  
P.

Examiner

Jason M Han

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: the inventor refers to a lamp having a base on one end and a concave reflector on a second end, which seems unreasonable. It is under the assumption of the examiner that said concave reflector is attached to said base on the same end. If this is incorrect, then please elucidate. Also, it is preferable to claim a lamp assembly rather than a guard for a lamp in the preamble. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soileau (U.S. Patent Number 4959762) in view of Alessio (U.S. Patent Number 3731657).

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4. With regards to Claim 1, Soileau discloses a luminaire comprising of a light source [Figure 1, (14)], a base [Figure 1, (12)], a concave reflector [Figure 1: (16)], a lip [Figure 1: (18)] disposed on an open side of said reflector, a screen guard [Figures 1 and 2: (22, 24); Column 2, Line 62 – Column 2, Line 3; Column 4, Lines 20-37] disposed on said lip, and a plurality of fasteners [Figure 1: (20)] disposed on said screen guard.

Soileau does not disclose said luminaire disposed within a cage.

Alessio discloses an animal cage comprising a heat lamp [Figure 2: (15)].

It would have been obvious to incorporate the luminaire taught by Soileau in the animal cage of Alessio in order to provide light and warmth to an animal.

5. With regards to Claim 2, Soileau discloses a light bulb [Figure 1: (14); Column 2, Line 14].

6. With regards to Claim 3, Soileau discloses a screen guard that is substantially planar to fit said open end of said luminaire [Figures 2-4: (24); Column 3, Lines 4-7].

7. With regards to Claim 4, Soileau discloses a screen guard that is substantially circular to fit said open end of said luminaire [Figures 1-2: (22, 24); Column 3, Lines 4-7].

8. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soileau in view of Alessio as applied to Claims 1-4 above, and further in view of Blake (U.S. Patent Number 4516196).

9. With regards to Claim 5, Soileau in view of Alessio disclose a luminaire as described in Paragraph 4 above.

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Soileau in view of Alessio does not specifically disclose said plurality of fasteners [Figure 1: (20)] disposed on said screen guard, wherein two of said fasteners are fixedly attached to said screen guard and where at least one of said fasteners is removably attached to said screen guard.

Blake discloses a luminaire hinge and latch whereby latches [Figures 1, 2, 3: (12)] are permanently attached to a refractor [Figures 1, 2, 3: (4)], which are further used in attaching said refractor to a reflector [Column 3, Lines 6-26]. Blake further discloses said hinge attachment [Figures 1, 4, 5: (11)] also located on said refractor, and which is separable and removable [Column 3, Lines 27-48].

It would have been obvious to modify Soileau in view of Alessio to incorporate the fasteners of Blake so as to allow easier accessibility to a light source. Also, said fasteners are fairly common in the art and provide the same means and function (e.g. attaching/removing a guard, shield, refractor, etc. to a reflector, enclosure, etc.) for the present application despite differing and various embodiments.

10. With regards to Claim 6, Blake discloses said latches [Figures 1,2, 3: (12)] being permanently attached to said refractor [Column 3, Lines 6-26]. As mentioned in the paragraph above, said fasteners are functionally equivalent and consideration to how they are attached is negligible. Further, Blake mentions that the latches are permanently attached to a plastic refractor. It is commonly known that welding is used to seal and attach metal objects, which may be a means for Blake if the invention was a metal mesh guard instead of a plastic refractor.

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11. With regards to Claim 7, as described above the fasteners provide the same means and function, and differing embodiments are considered negligible. Regardless, Soileau discloses a U-shaped clip [Figure 1: (20)] attached to said luminaire.

12. With regards to Claim 8, Blake discloses said latches [Figures 1,2, 3: (12)] being permanently attached to said refractor [Column 3, Lines 6-26]. As mentioned above, said fasteners are functionally equivalent and consideration to how they are attached or of their structure are negligible. Further, Blake mentions that the latches are permanently attached to a plastic refractor. It is commonly known that welding is used to seal and attach metal objects, which may be a means for Blake if the invention was a metal mesh guard instead of a plastic refractor.

13. Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soileau in view of Alessio in further view of Blake as applied to Claims 5-8 above, and further in view of Roebken (U.S. Patent Number 2469412).

With regard to Claims 9 and 10, Soileau in view of Alessio in further view of Blake disclose a luminaire with a plurality of fasteners as a means for attaching a guard/refractor to a reflector, whereby one of said fasteners is removably attached.

Soileau in view of Alessio in further view of Blake does not specifically disclose a removably attached fastener comprising a pem-type fastener.

Roebken discloses a therapeutic lamp comprising of a bolt [Figure 3: (34)] having a head [Figure 3: (35)] at one end and a removable nut [Figure 3: (36)] at its other end. This bolt passes through an opening [Figure 3: (37)] in the reflector and an opening [Figure 3: (33)] in the screen guard [Figure 1: (24)] and serves to effectively secure the

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reflector [Figure 3: (33)] in its proper position with respect to the guard and the source of light [Column 3, Lines 22-28].

It would have been obvious to modify Soileau in view of Alessio in further view of Blake to replace said removably attached fastener with Roebken's fastener, whereby a bolt with a removable nut may be used to firmly secure and attach a guard/refractor to a reflector. Said fastener of Roebken is considered functionally equivalent to a pem-type fastener.

14. With regards to Claim 11, Roebken discloses a deflector/reflector [Figure 3: (33)] disposed between a light source [Figure 3: (17)] and a screen guard [Figure 3: (31)], which serves to reflect heat and light that would normally be focused onto a specific area. Said light is also deflected into a concave reflector [Figures 5 and 6; see also Claims].

15. With regards to Claim 12, Roebken discloses a bolt [Figure 3: (34)] having a head [Figure 3: (35)] at one end and a removable nut [Figure 3: (36)] at its other end, whereby a deflector/reflector is connected to a screen guard. It is apparent that said bolt and nut are threaded for attachment.

16. With regards to Claim 13, Roebken discloses a bolt [Figure 3: (34)] having a head [Figure 3: (35)] at one end and a removable nut [Figure 3: (36)] at its other end. This bolt passes through an opening [Figure 3: (37)] in the reflector and an opening [Figure 3: (33)] in the screen guard [Figure 1: (24)] and serves to effectively secure the reflector [Figure 3: (33)] in its proper position with respect to the guard and the source of light [Column 3, Lines 22-28]. Please note that it is apparent that the bolt and nut are

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threaded to correspond to one another, and said bolt further received in the center of said screen guard [see Figures 1 and 2].

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are further cited to show the state of art pertinent to this application:

Please note U.S. Patent Number 1369008 to Christen with respect to a U-Clip [Figure 3] whose primary function is to clamp two objects together;

Please further note U.S. Patent Number 4840278 to Gelinias with respect to a pem fastener [Figure 2: (32); Column 3, Line 61], which is functionally equivalent to the fastener taught by Roebken;

U.S. Patent Number 4654768 to Dryman et al.;

U.S. Patent Number 1610609 to Johnston;

U.S. Patent Number 2822462 to Price;

U.S. Patent Number 4396221 to Morgan et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH

A handwritten signature in black ink, appearing to read 'JAW', with a large, stylized loop at the end.

**JOHN ANTHONY WARD  
PRIMARY EXAMINER**